

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

) MUR 3987

Hughes Aircraft Company)

)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by the Susan Brooks for Congress committee. The Federal Election Commission ("Commission") found reason to believe that Hughes Aircraft Company (Respondents) violated 2 U.S.C. § 441b(a).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

PARTICIPANTS

1. Hughes Aircraft Company ("Hughes") is a corporation within the meaning of 2 U.S.C. § 441b(a).

2. Friends of Jane Harman ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

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OFFICE OF THE CLERK

LAW

3. Section 441b(a) of the Federal Election Campaign Act of 1971, as amended, ("Act") prohibits corporations from making contributions or expenditures in connection with any federal election. 2 U.S.C. § 441b(a).

4. The Act further prohibits officers and directors of a corporation from consenting to any prohibited corporate contribution or expenditure. 2 U.S.C. § 441b(a).

5. The Act broadly defines a contribution or expenditure to include any "direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value" made to a candidate or campaign committee in connection with any federal election. 2 U.S.C. § 441b(b)(2). When a corporation collects, forwards or uses corporate resources to facilitate the making of contributions to a candidate or campaign committee, the corporation has provided something of value to that candidate or campaign committee.

6. The Act, Commission regulations, Advisory Opinions and enforcement actions provide or elaborate on specific exemptions from the definition of a contribution or expenditure, thereby setting forth permissible bounds of corporate activity in connection with a federal election.

7. The Act permits a corporation to make partisan communications to its stockholders and executive or administrative personnel. 2 U.S.C. § 441b(b)(2)(A). The corporation must bear the costs of such communications. 11 C.F.R. § 114.3(c)(1)(i).

8. A corporation may not actually collect, forward or use corporate resources to facilitate the making of contributions to a candidate or campaign committee. *See* Advisory Opinions 1987-29 and 1986-4; *see also* MURs 3540 and 4005.

9. The Act permits the occasional, isolated, or incidental use of corporate facilities for individual volunteer activity in connection with a federal election. 2 U.S.C. § 441b. The corporate employee who undertakes such individual volunteer activity must reimburse the corporation to the extent that its overhead or operating costs are increased. 11 C.F.R. § 114.9(a)(2).

10. The individual volunteer activity exemption applies to the use of corporate facilities by corporate employees and does not encompass the use of corporate employees by political committees when those services are paid by their corporate employer. *See* Advisory Opinions 1984-24 and 1984-37.

FACTS

11. Hughes engaged in corporate fundraising efforts on behalf of Representative Jane Harman after Representative Harman asked Hughes' Chief Executive Officer to host a fundraiser for her campaign.

12. Hughes personnel consulted legal counsel on how to conduct such fundraising in accordance with applicable law and endeavored to comply with the oral legal advice given. Hughes personnel understood that Hughes support for the Committee fund-raiser was permitted provided that all costs incurred would be charged to and paid by the Committee.

13. On October 12, 1993, Hughes sent an invitation letter on corporate stationery signed by the Chief Executive Officer to approximately 233 executives of Hughes, personally inviting them to attend a reception to be held on corporate facilities in honor of Representative Harman. This letter stated: "It is important that we support Congresswoman Harman. She is a proven friend to Hughes. . . who has gained important positions on the House Armed Services and Science, Space & Technology committees."

14. On October 13, 1993, Hughes sent a solicitation letter on corporate stationery signed by a Senior Vice President and a Vice President, to approximately 38 of the most senior executives who received the invitation letter, soliciting contributions for the Committee. The stated purpose of this letter was "to ask you and your senior people to participate in the fundraising portion of the event." The letter continued by offering the following voluntary suggested contribution amounts:

Director & E9 equivalent	\$ 100
Staff Vice President	\$ 200
Vice President	\$ 300
Senior Vice President	\$ 500

The letter instructed contributors to draw personal checks made payable to Friends of Jane Harman and to forward those checks in advance of the event to Jo-Ann Costa, the Director of Public Affairs for Hughes.

15. On October 25, 1993, after invitations had already been sent, Hughes received written legal advice that differed from its understanding of the legal advice previously given.

16. On October 29, 1993, the fund-raiser was held as scheduled on corporate facilities and raised \$21,000 in contributions to the Committee. Representative Harman and members of the Committee attended the event. Ms. Costa collected contribution checks both in advance of and during the event and then forwarded them to the Committee.

17. Corporate facilities were utilized in the fundraising effort on behalf of the Committee. Hughes provided the use of its corporate letterhead, office equipment and furniture, interoffice mail system, mail box and telephone system, along with other corporate facilities, to conduct the fund-raiser.

18. Corporate personnel were actively involved in the fundraising endeavor, and corporate officers consented to the use of corporate resources and facilities in an effort to solicit and collect contributions for the Committee.

19. On November 9, 1993, Hughes sent an invoice to the Committee in the amount of \$857.46, which the Committee paid, for corporate expenditures made in connection with the fund-raiser for letters, labor, facilities, badges, and administrative support.

20. Notwithstanding the belief of the Respondent that the event was conducted in compliance with the Act, fundraising activities described *supra* are not exempt from the Act's broad prohibition on corporate contributions either as partisan communications to the corporation's restricted class or as the individual volunteer activity of corporate employees in connection with a federal election. 11 C.F.R. §§ 114.3 and 114.9. The activities set forth constitute an organized fundraising effort by Hughes resulting in Hughes making an impermissible contribution to the Friends of Jane Harman committee.

V. Hughes Aircraft Company violated 2 U.S.C. § 441b(a) by providing the use of corporate facilities and personnel for fundraising activities and by facilitating the making of \$21,000 in contributions to a federal candidate.

VI. 1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Forty Thousand Dollars (\$40,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondent will not undertake or otherwise engage in fundraising activity of the type described *supra* on behalf of any federal candidate or political committee.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.


VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

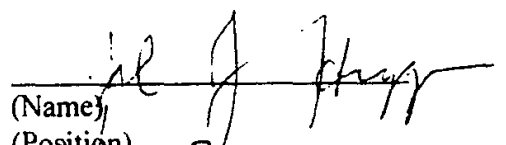
FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

9/24/96
Date

FOR THE RESPONDENT:


(Name)
(Position)
General Counsel

9/17/96
Date